

## Liberalisation



This Friday the weather was sunny and warm. One of those Berlin afternoons when the city seemed to be a bit greener, airier and more easy going than on the days before.

From the top floor of the recently completed carcass of a building the guests of the topping-out ceremony and myself had a panoramic view over the entire city. In the east we saw the high-rises at Alexanderplatz, in the west those at Breitscheidplatz. From our vantage point everything looked orderly and well placed.

After the address at the ceremony the mood is quite happy when a lawyer joins us at our table. “Well, in September the HOAI will be a thing of the past” is his offensive opening. “Then the fee order for architects and engineers will be history.” His gloating remark comes for me as a surprise. Oh dear, I could almost hear the crackling of the ice floe breaking under my feet. I felt like a polar bear drifting out to the open sea on a lonely floe. Within a blink I had come back to reality.

The law suit at the European Court of Justice against the Federal Republic of Germany because of the fee order for architects and engineers has been pending for years. It’s about the liberalisation of the market - the market of planners and designers.

Of course, the old crone HOAI anyway needed adaptation to the new, current conditions. Major changes like BIM or phase zero are not properly taken care of in it. And fees for major projects are a matter of free negotiation even today.

But sitting on my ice flow I cannot imagine that the binding minimum and maximum rates would be abolished completely. Far too often referring to this patron of all architects and engineers has strengthened our weak positions in negotiations and ensured a more or less reasonable income for us.

So this will be a thing of the past? I remember the groups of starved polar bears filmed this winter while searching for food in the waste bins of a dark Siberian town near the arctic circle.

In the proceedings at the European Court of Justice the general prosecutor - a kind of Jeanne d 'Arc for the unfettered market - claims that the binding character of the minimum and maximum rates of HOAI are violating EU legislation. For that reason he recommends to abolish them completely and expose all design services to free competition.

The seemingly cheaper architect from the Netherlands (0.6 architects per 1000 inhabitants, no binding fee order) or the urban planner from Romania (0.4 per 1000 inhabitants, no binding fee order) should be able to offer their services also in Germany (1.3 architects per 1000 inhabitants with a binding fee order) at a lower rate. This is supposed to provide smaller domestic architects' practices with lower costs with a competitive advantage and help them to get established on the market. This is the theory.

At the first glance it appears to be quite logical. Yet, it reflects a colossal misinterpretation of the actual situation and is a direct economic attack on our domestic building culture.

What is the measurable value of a well-built house or city? Culture and quality of life make them attractive but can hardly be measured in the terms of market economy. There is no denying, however, that architects and planners play an important role for the quality of the buildings in our world. The responsibility of architects goes beyond the duties defined in the contract with their clients. They also bear responsibility for the public welfare.

For that reason HOAI together with other things like the professional code of conduct, the duty to engage in ongoing qualification or to provide proof for certain qualifications aim at regulating and ensuring the quality of design and planning for the society.

Similar aspects apply for the services of other professionals like physicians, lawyers or tax consultants. With an appropriate fee the patients and clients pay for a service they have to rely upon because they themselves can assess the quality of the provided services to a limited degree only.

In case the European Commission should be successful, the fees will mostly go down. The practices will employ fewer people and pay lower wages. Thus they will attract less qualified employees and lose knowledge and influence. A downward spiral will be the result.

Smaller architects' offices will find it difficult to become economically established. Major practices will try to simplify their activities to work more economically. Then design and planning will migrate ever more to large groups. All in all the landscape of planning and design will become poorer.

The result can be seen in the USA or England. They have nearly no small or medium-sized practices, about half as many architects as Germany and thus quality and culture of planning and design are less widespread. Already now these countries have less knowledge of what good cities are like, fewer institutes engaged in urban research, fewer university chairs, fewer media interested in building culture, fewer urban planners, conservationists, galleries and museums of architecture defining and demanding quality, fewer approval authorities and in consequence less urban quality of life and less sustainability. There is simply less will to have a building culture and less knowledge of it and there is less quality of life for the general public.

In many countries of Europe architects and engineers have already given up much of their competence. All they do is deliver a set of the design documents. The client then looks for a contractor who does the detailed design and that's it. In Germany architects still owe the entire works, they are responsible for the tenders, site supervision and at the end for the entire building. This means that our domestic practices still need a lot of competence and knowledge to be successful.

Design and planning cannot be successful without competent designers and planners who control, direct, regulate, define, protect, renew, invent, adapt, and manage. And without design and planning there will not be well-built cities and a good and fair life for many.

Well-built cities are based on powerful regulation. The liberalised market can achieve a lot in some respects. But unfettered market forces have never yet erected a well-built city. Neither is climate protection possible without a powerful government. The polar bear on his ice floe is free but drifting south to inevitable death.

We need more stringent politics defending the interests of the general public and ensuring the conditions that allow building culture to unfold.

I want to have a fair and reasonable balance of all who are responsible for planning and erecting our cities: the private contractors, designers and planners, public institutions and citizens.

Architects can connect these opposing forces and fulfil thus an important task within this system of diverging elements.

With their hard work they consolidate the foundations of our society and make an important contribution to Germany's economic, social and ecological success.

In this play of forces the planners need to be protected because they are very important contributors to building culture.